

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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Richard Ina, et al..

Case No. 2:18-cv-01602-JAD-BNW

Plaintiffs,

ORDER

V.

CV Sciences, Inc., et al.,

Defendants

The court granted in part and denied in part Plaintiff's Motion to Compel at ECF No. 88 from the bench on December 3, 2020. The defendants filed a response to that motion, which was also separately filed as a Motion for a Protective Order. ECF Nos. 98 and 100. The Plaintiff filed a response to the Defendants' Motion for a Protective Order at ECF No. 104. To avoid any confusion and ensure the record is clear, the court denied Defendants' Motion for a Protective Order.

Federal Rule of Civil Procedure 26 does not explicitly set a time limit for a motion for a protective order. However, the Court finds—like most other courts—that Rule 26 contains “an implicit requirement that the motion must be timely, or seasonable.” *Brittain v. Stroh Brewery Co.*, 136 F.R.D. 408, 413 (M.D.N.C. 1991).

Neither party points to mandatory authority that addresses timeliness. Many courts have found that for a Rule 26(c) motion to be timely, it must be made prior to the date set for producing the discovery. *Nutrition Distribution LLC v. Black Diamond Supplements LLC*, 2018 WL 1109556, at *5 (D. Ariz. Mar. 1, 2018). Here, as discussed in the Order to Plaintiff’s Motion to Compel, all Defendants were on constructive notice, at last as of April 2020, that Plaintiff was

1 seeking certain discovery. Defendants knew as of June 2020 that Plaintiff considered all
2 objections waived. All Defendants received further confirmation of this during the meet and
3 confer sessions that took place in August and September of this year and obtained written
4 confirmation as well. ECF Nos. 88-4 and 88-5. Yet, Defendants did not move for a Protective
5 Order until October 27, 2020—and it was only filed as response to Plaintiff's Motion to Compel.
6 The court finds Defendants' Motion for Protective Order untimely and denies it on that basis.

7 IT IS THEREFORE ORDERED that ECF No. 100 is DENIED.

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9 DATED: December 3, 2020

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11 BRENDAG WEKSLER
12 UNITED STATES MAGISTRATE JUDGE
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